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EXAMINER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Arguments

1. In response to Applicant's request for clarification of the telephone conversation between the Examiner and Applicant, of 8/13/2007, the Examiner acknowledges contacting the Applicant, with the intent of assisting applicant in his pursuit of a patent.

Upon reviewing Applicant's response of 4/9/2008, it was clear to the Examiner the Pro Se Applicant was making an earnest effort to distinguish the claimed invention from that of the prior art; but failed to demonstrate how the structural and functional features of the claimed roadway intersection, would not be an obvious result of known designs and building techniques, taught by the prior art.

Hence, the Examiner, recognizing a duty to assist inventors without the benefit of a patent attorney or agent, called Applicant, in hopes of clarifying the outstanding issues. As to the content of the phone conversation, no agreement was ultimately reached on patentability, no specific claim language was suggested; and the scope of the conversation focused on each parties interpretation of claims, and differences on whether the prior art sufficiently motivated one of skill in the art to make or use the claimed features, to build a roadway intersection, given known geographical limitations such as mountains, wetlands and buildings. Which are all known engineering limitations.

The Examiner notes the prosecution history reflects differing view of patentability, even among the different Examiners involved in prosecuting this application. And should be seen as an indication of the subjective nature of patentability in roadway design, in general.

2. Applicant's request for withdrawal of the Finality of the rejection mailed 11/19/2007 is based on the suggestion, that the prior art documents were not provided to Applicant.

However, "Google" maps were provided with action mailed 12/20/2006 and "Mapquest" maps were provided with the action mailed 8/12/2005. Therefore, the argument is not persuasive, and finality of the last rejection mailed 11/2007 is maintained.

3. Applicant's request to reconsider the 35 USC rejection of Claims 29-42 is not persuasive.

Applicant argues "Highway 495 has no median...where the Eisenhower Ave Connector (third road surface) meets Highway 495 (first road surface and second road surface). Also the Eisenhower Connector pass under both the highway 495 east bound lanes and west bound lanes...does not have a terminated end that located within the median between the first road surface and the second road surface.

Applicant's illustrations and depiction of the development of the 495/Eisenhower Ave. interchange over the years is noted, in that the current form of the interchange is a modification of previous traffic patterns. Applicant is reminded that examination of Applicant's invention is based on what information was available to one of skill in the field, at the time of invention of Applicant's interchange.

To that extent the NPL predates Applicant's effective filing date, and thus constitutes prior art.

Applicant argues against the NPL to "interchange 30" in Dallas, by stating "Route 30 Interchange...does not have a terminated end that is located within the median between the first road surface and the second road surface...Route 30 Interchange passes under the 1st road surface and the 2nd road surface".

Applicant then lauds the advantages of the claimed invention by suggesting "the Simplified 'T' Interchange Designs provide substantially the same amount of safety, that 'Diamond and 'Trumpet' interchanges provide...the Simplified 'T' Interchange Designs can be modified as traffic volume increases to transform them into 'Diamond' and Trumpet Interchanges". See Fig. 14x, 14y, 15x, 15y".

Applicant's bona fide attempt to set forth the features described above is noted with appreciation, for its clarity and brevity.

The Examiner concurs that structural differences exist between the claimed invention and the prior art to Eisenhower Ave/495 interchange, in that the exit/entrance ramps are exterior of the main east and west bound roadways, and that Applicant's claimed invention position 1 pair of exit/entrance ramps between the main east/west roadways.

The structural and design difference between the two, being that Applicant has utilized a "left hand" exit/entrance ramp (in the direction of travel), whereas the prior art shown in Eisenhower Ave, utilizes a more traditional "right side" exit/entrance ramp.

However, left hand exit/entrance ramp systems are well known throughout the country. Further, disposing exit/entrance ramps between main roadways of a divided highway, are illustrated in the NPL of Interstate 30 in Dallas. Where the use of interior exit/entrance ramps systems are currently in use, and clearly necessitated by geographical conditions, such as nearby buildings and the like.

Therefore, it would have been obvious to one of ordinary skill in the art, at the time the invention was made to modify the Eisenhower Ave/495 interchange to include interior exit/entrance ramps, as reasonably suggested by the NPL to Interstate 30 in Dallas, in order to maximize the distance between the road surface and nearby buildings.

Therefore, the rejection appears proper and is maintained.

/Raymond W. Addie/
Primary Examiner, Art Unit 3671

8/15/2008